

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

WILLIAM SOTO, G-49875,)	
)	
Petitioner,)	No. C 10-0468 CRB (PR)
)	
vs.)	ORDER
)	
VINCE CULLEN, Acting Warden,)	
)	
Respondent.)	
_____)	

Per order filed on November 24, 2010, the court denied on the merits petitioner's application for a writ of habeas corpus under 28 U.S.C. § 2254. And, pursuant to Rule 11 of the Rules Governing Section 2254 Cases, it also denied a certificate of appealability (COA) under 28 U.S.C. § 2253(c). On that same date, the clerk entered judgment in favor of respondent.

Petitioner did not file a notice of appeal in the district court within 30 days. See Fed. R. App. P. 4(a)(1). But it appears that he instead submitted a petition for a writ of certiorari from the Supreme Court of the United States, which the high court returned to him explaining that his case must first be reviewed by a United States court of appeals. Petitioner then submitted a short note to the Ninth Circuit, which the appellate court stamped received on February 15, 2011 and forwarded to this court.

1 Petitioner's note is construed as a motion for an extension of time to
2 appeal. But the motion must be denied because it was not filed within 30 days of
3 the expiration of the time to file the notice of appeal. See Fed. R. App. P. 4(a)(5).
4 Nor can the case be reopened in order to permit petitioner to file a timely notice
5 of appeal because petitioner cannot show that he did not receive notice of the
6 entry of the judgment within 21 days after entry. See Fed. R. App. 4(a)(6)(C).
7 SO ORDERED.

8 DATED: Feb. 24, 2011



CHARLES R. BREYER
United States District Judge